

# **CUSTOMS BULLETIN AND DECISIONS**

**Weekly Compilation of**  
**Decisions, Rulings, Regulations, and Notices**  
**Concerning Customs and Related Matters of the**  
**U.S. Customs Service**  
**U.S. Court of Appeals for the Federal Circuit**  
**and**  
**U.S. Court of International Trade**

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## **NOTICE**

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 93-88)

### FOOTWEAR DEFINITIONS

In the past, footwear definitions used by Customs import specialists in classifying footwear under Chapter 64, Harmonized Tariff Schedule of the United States (HTSUS), could be found in the Automated Commercial System to which only Customs, and not the importing public, had access. It has been determined that availability of these definitions for the use of the importing community would be advantageous both to importers and Customs. Since footwear importers are required to abide by Customs terminology, it would assist them in better understanding classification requirements. In turn, by providing these definitions, Customs would benefit by reduced errors in classification, thereby reducing our administrative burden. These definitions are provided merely as guidelines. They are not to be construed as Customs rulings. Rulings as to the tariff classification of imported merchandise may be obtained from any Customs District Director or the Area Director of Customs, New York Seaport, 6 World Trade Center, New York, NY 10048 or the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, DC 20229. See 19 CFR 177.2. The footwear definitions are set forth below.

Dated: October 25, 1993.

HARVEY B. FOX,  
*Director,*  
*Office of Regulations and Rulings.*

[Attachment]

## FOOTWEAR DEFINITIONS

*Adhesive:*

In an exclusively "Adhesive" construction, all of the pieces of the bottom would separate from the upper or from each other if all adhesives, cements and glues were dissolved. It includes:

1. Shoes in which the pieces of the upper are stitched to each other, but not to any part of the bottom.
2. Shoes in which there is a fake stitch in the sole, i.e., the stitch does not unite two different pieces, but only goes back and forth through the same piece.

It does not include:

1. "Vulcanized" construction footwear.
2. "Simultaneous molded" construction footwear.
3. Molded footwear in which the upper and the bottom are one piece of molded rubber or plastic.
4. Footwear in which staples, rivets, stitching, or any of the methods above are either primary or even just extra or auxiliary, even though adhesive is a major part of the reason the bottom will not separate from the upper.

*American:*

"American" sizes go from 0 (for newborns) through 13 $\frac{1}{2}$  (for grammar schoolers) then restart at 1 and usually go to about an 11 for women and a 13 for men, but they can go up to 22 for someone very big and/or tall.

*Athletic:*

"Athletic" footwear (sports footwear included in this context) includes:

1. Shoes usable only in the serious pursuit of a particular sport, which have or have provision for attachment of spikes, cleats, clips or the like.
2. Ski, wrestling & boxing boots; cycling shoes; and skating boots w/o skates attached.
3. Tennis shoes, basketball shoes, gym shoes (sneakers), training shoes (joggers) and the like whether or not principally used for such athletic games or purposes.

It does not include:

1. Shoes that resemble sport shoes but clearly could not be used at all in that sporting activity. Examples include sneakers with a sequined or extensively embroidered uppers.
2. A "slip-on", except gymnastic slippers.
3. Skate boots with ice or roller skates attached.

*At the Heel:*

"At the heel" does not include any of the sides of the shoe. As a rule of thumb, if using a tape measure, the part of the perimeter of the shoe "at the heel" should be less than 2 $\frac{1}{2}$  inches long.

*At the Toe:*

"At the toe" does not include any of the sides of the shoe. As a rule of thumb, if using a tape measure, the part of the perimeter of the shoe "at the toe" should be less than 2 $\frac{1}{2}$  inches long.

*Composition Leather:*

Composition leather is made by binding together fibers or small pieces of natural leather. It does not include synthetics not based on natural leather. It is usually made of leather waste formed into strips, slabs, or similar forms.

*Cork:*

"Cork" in shoes includes articles made of natural cork, compressed cork and composition (agglomerated) cork.

*Cuff:*

It is assumed that the top of the shaft, i.e., the cylindrical piece which covers the leg above the ankle, will be folded down in use to expose part of the textile lining as a "cuff" if:

1. The country of origin/size label will not be visible when the top of the shaft is cuffed down. Or, it can be easily removed without damaging the underlying material. Or, it does not detract from the appearance of the boot if it is exposed by cuffing.
2. The top 3 to 5 inches of the outside of the shaft are a poor match in color or in design for the lower part of the shaft, indicating that the boot will be cuffed to hide that area.
3. At the top of the shaft there is a split down the back which facilitates cuffing the boot, and which is so designed that, when cuffed, the back edges of the cuff lay flat and do not flare out from the body of the shaft.
4. The lining of the top 4 to 8 inches of the shaft is made of a material which is different from the lining material of the lower part of the shaft and is equally or more attractive as a cuff material than the other material.

On the other hand, it is assumed the top of the shaft will not be folded down if:

1. The size and country of origin label is securely sewn into the inside back seam within an inch or two of the top of the shaft.
2. The shaft is lined with tricot (an open unit fabric) bonded to foam plastic or with another material which is equally unacceptable in appearance as a "cuff."
3. The zipper closure goes all the way up to the top of the boot.

When none of the features described above are present, other factors, including the advertising and display of similar boots to the consumer, must be considered.

*Demarcation:*

A line of "demarcation" exists if one can indicate on the item the line along which the sole ends and the upper begins. For example, a knit infant's bootie does not normally have a line of "demarcation".

*Dissecting:*

Dissecting the welt requires that the shoe be cut through in cross section usually across the toe, and that the upper and the sole be partially forced apart without breaking the stitching which connects them. Confirmation of classification is not possible without this "dissection".

*External Surface:*

1. The "external surface" of the upper is, in general, the outside surface of what you see covering the foot (and leg, if applicable) when the shoe is worn.

A. It does not include:

1. Accessories and reinforcements such as ankle patches, edging, ornamentation, (i.e., tassels, pompons, or braids), buckles, tabs, eyelet stays, slide fasteners, or similar attachments. Other examples include the leather pieces sewn on top of the lower part of the upper in basketball shoes, and "filled-in" embroidery.
2. The upper's lining, which faces the foot.
3. The sock lining that the foot rests on.
4. The tongue.
5. Shoelaces which do not cover the foot by themselves and velcro straps which are substitutes for shoe laces.
6. Stitching threads if either functional or forming only the outline of a design.
7. Loosely attached appurtenances such as bows secured only at the knot.

B. It does include:

1. Small holes in materials. The holes count as if they were filled with the material which surround them.
2. The flocking fibers on a flocked plastic even though they are a very minor percent of the weight of the material.
3. The top part of the lining of boots if the boot is likely to be worn sometimes with the top of the shaft folded or rolled down, thus exposing that part of the lining to view, as a "cuff".
4. Underlays, which are the outer side of lining that can be seen through large holes in the uppers. Any hole bigger than a collar button is surely "large"; one smaller than pin head is surely not "large"; In between, it depends on the materials, shape spacing, etc.

2. The "external surface" of the "outer sole" is, in general, the part of the shoe (other than a separate heel) in contact with the ground when in use. It does not include accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments. It does include the plastic dots on textile soles.

*Felt:*

Felt is a type of nonwoven fabric. It includes needleloom felt and fabrics consisting of a web of textile fibers the cohesion of which has been enhanced by a stitched bonding process using fibers from the web itself.

*Formed Uppers:*

"Formed uppers" includes:

1. In general, all items which have a layer of material between most of the foot and the ground, and which, after lacing or buckling, if needed, will stay on the foot if worn in the condition as imported and which are shaped to fit the human foot.

"Formed uppers" does not include:

1. Moccasin uppers with a significant sized hole (the size of a nickel or larger) in the bottom layer whether or not the upper is fully formed (lasted) unless the piece which will cover that opening is in the same shipment.
2. Any upper which is completely unlasted, i.e., no part of it has been bent (lasted) inward to the horizontal.
3. Uppers with outer soles (which come in contact with the ground in normal use). As long as most of the upper (that which covers the top and sides of the foot) is present; that plus the outersole adds up to "unfinished footwear" in HTS 6401-6405.

*Footwear:*

"Footwear" excludes:

1. Footwear of textile materials with no line of demarcation between the sole and the upper, i.e., you cannot remove the stitching, adhesive, etc and have a piece of material which is the sole in your hand. In general, these are similar to socks except they are not necessarily worn under shoes.
2. Flimsy (usual disposable) footwear of any material with no line of demarcation between the sole and upper. One example is a "protective boot" made by heat sealing together (down the middle) two pieces cut out from a sheet of lightweight plastic.
3. Used footwear
4. Orthopedic footwear (made to fit one particular person) and orthopedic appliances such as talipes appliances, surgical boots and cast boots. Cast boots are worn temporarily after foot surgery or trauma. The uppers consist of very adjustable straps (to accommodate the bandaged foot or cast) which leave the wearer's toes exposed. The bottoms are very rigid. They are not sold in pairs and are normally sold in surgical supply stores, usually under an MD's prescription.
5. Sports equipment, even though it covers the foot, if its essential character comes from the part(s) that do not cover the foot. Examples are skating boots with ice or roller skates attached, divers flippers, waterskis (which usually have a "foot stirrup" attached), and snowshoes.
6. Toy footwear, including doll's shoes and the plastic "high-heels" worn indoors by girls playing "dress-up like mommy."

*Foxing-Like Band:*

Briefly, a "foxing-like band" is a band around a substantial portion of the lower part of the upper which either has been attached (cemented, sewn, etc.) to the sole or is part of the same molded piece of rubber or plastics which forms the sole.

It is more convenient to first exclude those shoes which clearly do not have "foxing-like bands."

In most shoes, including almost all dress shoes, there is an exposed joint between the upper and the sole. The upper, which is basically vertical where it covers the side of the foot, curves into the horizontal in the last  $1/8$  inch as it approaches the sole because it will be cemented or stitched to the top of the sole, which is a flat horizontal surface. As a result, in most dress shoes one can stick the point of a pen held horizontally into an obvious gap in the outside of the shoe, which gap is just slightly below where the bottom of the foot rests. If this is the case around all or substantially all (more than 60%) of the shoe's perimeter, the shoe does not have a "foxing-like band". Note that this description assumes that the

piece of material which covers the foot is the one that is attached to the sole. To directly define "foxing-like band", it is necessary to first define a foxing band. A typical foxing band is a rubber tape, about 1 inch high by  $1/16$  inch thick, which covers the lower part of the upper and the edge of the rubber outersole in, for example, a basketball shoe. If a shoe has such a foxing or something you cannot distinguish from a foxing without cutting, it can be assumed to have a "foxing-like band". For those shoes which are not covered by the above, it is not possible to summarize the additional physical tests in a way that would be both practical and accurate.

*Functional:*

"Functional" stitching does not include reinforcing stitching which is not strictly necessary. If this is doubtful, remove all the stitching whose threads show on the upper at the meeting of the two pieces. If the two pieces then come apart without using any force, the exposed stitching was "functional". If they do not, it was not "functional" and the pieces are also held together by a hidden stitch, back tape, etc.

*Insole:*

An "insole" is either:

1. A thin, rigid piece of treated cardboard shaped approximately like the outline of the sole of the foot. In a standard cement construction, like in almost all dress shoes, about  $1/4$  inch of the edge of the upper material has been cemented to its bottom surface. There is almost always a lining layer of fabric, leather or imitation leather secured to the top of the "insole". This lining layer is what the foot (or stocking) rests on.

or:

2. A removable "insole" made of "rubber or plastics" with, almost always, a textile layer on its top surface. This textile layer is what the foot (or stocking) rests on.

*Lasted:*

In most shoes, including almost all dress shoes, the upper is "lasted" by cementing about a  $1/4$  inch edge of its inner surface to the bottom side of a thin, rigid "insole" shaped approximately like the sole of the foot.

*Leather:*

"Leather" in shoes excludes:

1. Any tanned animal skins with the fur, hair, wool, feathers or down still on if the "leather like" side is on the inside of the upper.
2. Any leather coated with plastic which is so thick that the external surface looks like plastic, not leather. That a plastic coating may be thicker than 0.15mm no longer changes a leather surface to plastic. Lab measurements are no longer necessary.
3. Patent (shiny) leather laminated with a plastic sheet thicker than the leather it is laminated to (it is very unlikely that it is this thick).
4. Composition leather, which is not simply the hide of an animal, but is made by agglomerating fibers, pulp, or small waste pieces of leather by using resin, glue, strong compression, etc.

"Leather" in shoes includes:

1. All tanned animal skins on which the fur, hair, wool, feathers, or down is on the inside of the upper or which are naturally hairless such as snakes and sharks.
2. Any leather coated with a layer of plastic which is not thick enough to change the external surface appearance from leather to plastic.
3. Patent (shiny) leather laminated with a plastic sheet that is thinner than the leather itself.
4. Metalized leather, which is leather coated with metal powder or metal leaf.

*Leg Warmers:*

"Leg warmers" usually cover from the ankles to the top of the thighs, but do not cover the feet or the hips. They are always of a fairly stretchy fabric. They were originally only worn by dancers when warming up but have become more widely used in the last few years. Some have a strap or "stirrup" which goes under the foot to keep them from "riding up".

*Like:*

The "like" in tennis, basketball, gym, training (jogging) shoes and the "like" includes athletic footwear (other than "sports" footwear), whether or not principally used for such athletic games or purposes.

***Line of Demarcation:***

A "line of demarcation" exists if one can indicate on the item the line along which the sole ends and the upper begins. For example, a knit infant's bootie does not normally have a "line of demarcation".

***Lip:***

The "lip" (HS) on the bottom surface of the "insole" is either a separate piece of material or a part of the "insole" which has been cut out and bent down at right angle from the rest of the "insole". The "lip" is usually about  $\frac{1}{8}$  inch long and  $\frac{1}{16}$  inch wide. If there is no "lip", this is not welt footwear for tariff purposes.

***Male Size:***

The "male size" in adult footwear is marked 2 sizes smaller than a woman's size for a shoe of the same length. A shoe of a given length would be marked as a 10 if women's sizing was used and as an 8 if men's sizing was used. In smaller sizes, the difference is less. For example, a woman's 4 is equivalent to a male's (boy) 3, and a woman's (miss) 1 is interchangeable with a male's 1.

***Molding:***

"Molding" processes in footwear exclude stitching, riveting, nailing, screwing or similar processes. Examples of those included are press molding, injection molding, slush molding, vulcanization, high frequency welding and cementing in which soles which have been previously molded or cut from sheet are stuck to the upper with any adhesive even though the material used for the sole is in its final form before the sole is stuck to the upper.

***Non-Molded:***

An upper of "non-molded" construction is made in whole or in part, of pieces of material which have been stitched together. Note that the use of vulcanization, i.e., the fusing together of two rubber pieces, does not automatically make an upper "non-molded".

***Open:***

In "open" toe shoes, all or part of the front of the wearer's toes can be seen. In open heeled shoes, all or part of the back of the wearer's heel can be seen.

***Orthopedic:***

"Orthopedic" appliances do not include mass produced insoles with arches. "Orthopedic" appliances must be made to measure for each individual and are therefore quite expensive.

***Outer Sole:***

The "outer sole" is that part of the footwear (other than a separate heel) in contact with the ground when in use. If it has no separate "outer sole", e.g., it has a one piece clog bottom, the material of the "outer sole" is the material of the shoe's lower surface.

***Overlap:* (This definition does not apply to foxing-like band determinations.)**

To determine if the sole does "overlap" the upper, first saw through the shoe in cross section. This cut should be across the ball of the foot unless you can see that the "overlap" is greater somewhere else. If so, you should cut through the shoe at that point. If you cannot tell whether or not the "overlap" is uniform around the shoe, make three evenly spaced cross section cuts through the shoe thus dividing it into four pieces. Examine the cross section pieces. The sole does not "overlap" the upper if its top is perfectly flat, i.e., it does not rise at all at its edges. As a practical matter, this perfect flatness will probably be present only in a sole or midsole (if that is what the upper is cemented to) made of a piece which has been cut out from a sheet of foamed-plastic. If the top of the sole or midsole is not perfectly flat, the balance of the examination depends on how it was made. If the sole is a unit molded sole, i.e., the sole is one piece of molded plastic which, after it cooled to the solid state, was cemented to an upper, which had earlier been "lasted" to a rigid "insole", find the curve which forms the top of the outsole. On that curve, mark the lowest point which is cemented to the material of the upper (which has been folded under the "insole") and the highest point, which is always at the edges of the sole. If the shoe is worn by adults

or teenagers and if the vertical difference in height between the two points you have just marked is less than  $1/16$  inch, the sole is presumed not to "overlap" the upper. If the height difference is  $1/16$  or more, the sole does "overlap" the upper. If the shoe is worn by children or infants, the critical height difference becomes  $1/32$  inch. If the sole is not a unit molded sole, but has a separate piece which is attached to the edge of the sole, the sole is presumed to overlap the upper with one exception.

That exception is soles which use a fake welt. A fake welt is a strip of plastic which is cemented to the top of the edge of the sole and hugs the upper all around the shoe. It is about  $1/8$  inch wide and  $1/16$  inch thick. In no case may it be thicker than it is wide. Flat soles with fake welt strips cemented on are not considered to "overlap" the upper.

#### *Overlays:*

Overlays are stitched on top of another material. If the "overlays" were removed, there would still be an upper which covers the whole foot.

#### *Parts Thereof:*

The "parts thereof" of the upper can be quite minor. For example, even though the entire foot portion is molded, it is sufficient for exclusion from HTS 6401 that a 2 inch vinyl collar is stitched to the foot portion all around the opening at the ankle. On the other hand, very minor pieces, such as tongue, the eyelet stays or a small cuff, would not be sufficient to be the upper's "parts thereof".

#### *Patent:*

Leather finished with raw oil in a boiling process or finished with a synthetic lacquer. In "patent" leather, the leather is coated, not laminated, with a smooth shiny layer of plastic. Use this definition for all footwear purposes.

#### *Patent Leather:*

A glossy leather, usually with a varnished finish.

#### *Pigskin:*

"Pigskin" leather can sometimes be visually distinguished from cow leather if it has not been coated. The natural grain (the side of the skin which the animal shows) in pigskin is less shiny than grain cow leather, and it often has many very small, white/gray spots that look somewhat like pale polka dots.

#### *Plastics:*

"Plastics" in shoes, common examples include: PVC (Polyvinyl chloride), and EVA (Ethyl-vinyl-acetate). The term does not include a plastic material such as nylon or acrylic when made into fibers whose largest diameter is less than 1mm (approximately  $1/25$  inch) or either cardboard or cork which is only impregnated by a plastic, e.g., texon, picaloon and composition cork. When referring to "external surface" questions, "plastics" includes any textile material visibly coated or covered externally with plastics, which means that the coating or covering can be seen with the naked eye disregarding any resulting change of color. If a coating of non-transparent plastic is used, the coating will probably not be considered visible if you can see the weave of the underlying fabric.

#### *Predominately:*

"Predominately" in footwear means having a greater percent than any other single type of material. For example, an upper whose external surface is 40% leather, 25% cotton canvas, 20% silk and 15% rubber is predominately of textile materials.

#### *Protection:*

Footwear is designed to be a "protection" against water, oil or cold or inclement weather only if it is substantially more of a "protection" against those items than the usual shoes of that type. For example, a leather oxford will clearly keep your feet warmer and drier than going barefoot, but they are not a "protection" in this sense. On the other hand the snow-jogger is the protective version of the non-protective jogging shoe.

**A. Footwear that is a "protection" against water includes:**

1. Any item which will keep your foot dry if you linger in a pool of water which is more than 2 inches deep unless:
  - a. It has a rigid, thick, clog bottom but no protective features — or
  - b. In normal use, water will get in over the top of the shoe or boot, e.g. skindiving and windsurfing boots, and molded rubber beach sandals — or
  - c. It is a woman's molded high heeled shoe in which the top of the foot will be exposed to the rain — or
  - d. It is a molded downhill ski boot. They are primarily designed to protect the ankle from injury, and no non-waterproof alternative is made.
2. All items for outdoor use which have uppers or liners made of "Gortex".
3. All items which are worn over other shoes or boots to give additional protection against water, e.g., galoshes.
4. Molded rubber clogs, which are the same shape as traditional Dutch wooden shoes. They are used in gardening on wet terrain.

**B. Footwear that is a "protection" against cold or inclement weather includes:**

1. All items lined with thinsulate, fleece, or foamed plastic which, uncompressed, is more than  $\frac{1}{2}$  inch thick.
2. All items with heating coils and provision for electrical current from batteries.

**It does not include:**

1. Items that keep the foot warm but can ordinarily only be worn indoors e.g., felt slippers and slipper socks.
2. Hiking boots that are not substantially warmer or more waterproof than ordinary. In protecting the foot from the mud and sharp objects present in all weather even a non-protective hiking boot will be heavier (thus warmer and more water resistant) than most shoes.

**Protective:**

"Protective" metal toe caps are usually inserted between the upper and its lining and are designed to protect the wearer's toes from being crushed by heavy objects.

**Rubber:**

"Rubber" (HS) for footwear includes all natural and synthetic rubbers and includes the rubber cores inside elasticized fabrics even though the cores are much less than 1mm (approx.  $\frac{1}{25}$  inch) in diameter. When referring to "external surface" questions, rubber: includes any textile material visibly coated or covered externally with rubber, which means that the coating or covering can be seen with the naked eye disregarding any resulting change of color.

**Simultaneous Molded:**

In a "simultaneous molded" construction, the part of the sole which is in contact with the upper was molded into its present shape at the same time it was being attached to the upper. In a finished shoe, a "simultaneous molded" construction can be identified by:

1. Very thin, straight, vertical lines at the extreme front and extreme rear of the whole bottom, if the bottom is one piece, or at the extreme front and rear of the midsole, if the outsole is a different color than the midsole.
2. After you cut the shoe in cross section, you will find that all or part of the upper is embedded in the sole. Also, if the upper is pulled off, you will see the pattern of the weave of the textile in the top surface of the plastic of the sole. In addition, if the very common string lasted process was used, you also find a thin cord (the lasting cord) embedded about  $\frac{1}{32}$  inch below the top of the sole material and about  $\frac{1}{4}$  inch in from the edge of the sole. This cord is stitched to the edge of the upper material and it makes a complete circuit of the sole.

**Soccer Shoe:**

A "soccer shoe" does not have a stud at the very front of the toe of the sole since such a stud might catch against the ground when kicking or passing the soccer ball. An American football shoe may have a stud close to the very front of the sole for better traction. Note, Europeans usually call a "soccer shoe" a football shoe. An American football shoe is never "unisex" but a European football shoe, i.e., a "soccer shoe" is often "unisex" due to the large growth of female soccer in the U.S. combined with the general lack of "soccer shoes" made specifically for females.

**Sports:**

Sports footwear applies only to:

1. Footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, cleats, clips, bars or the like.
2. Ski, wrestling, boxing and cycling boots or shoes and skate boots without ice or roller skates attached (if attached chapter 95 applies).

"Sports" footwear does not include any footwear which might be worn as informal wear in non-sports situations, e.g., sneakers; (usually so worn by kids) or deck (boat) shoes (usually so worn by preppies).

**Stiffeners:**

"Stiffeners" are usually inserted between the upper and its lining to give the upper shape and some rigidity. They are now usually made of plastic or plastic coated or filled textile materials. They are usually imported flat and are shaped by machines which use heat and pressure to force them into the required shape after they have been inserted into the upper.

**Slip-On:**

A "slip-on" includes:

1. A boot which must be pulled on.
2. Footwear with elastic gores which must be stretched to get it on or with elastic sewn into the top edge of the fabric of the upper.
3. Footwear with a shoe lace around the top of the upper which is clearly not functional, i.e., the lace will not be tied and untied when putting it on or taking it off.

It does not include any boot or shoe with any laces, buckles, straps, snaps, or other closure, which are probably closed, i.e. tied, buckled, snapped, etc., after the wearer puts it on.

**Textile Materials Footwear:**

Textile materials for footwear (including parts and accessories) covers the fibers (animal, man-made, vegetable), yarns, fabrics, felts, non-woven twine, cordage, ropes, etc., of HS Chapters 50 to 60.

Some of the unobvious materials included are:

1. Plastic monofilaments which do not exceed 1mm (1/25 inch) in any cross-sectional dimension. This is almost always true for monofilaments used in uppers.
2. Imitation raffia (straw) which is made from flat strips of plastic, usually polypropylene, which, after they have been folded and/or twisted for use in the upper, are less than 5mm (1/5 inch) wide. All imitation raffias seen by the NIS's for footwear have been textile material by this definition.

It does not include:

1. Leather or composition leather.
2. Plaiting materials of actual vegetable origin such as reeds, bamboos, rattans, straws, grasses, natural raffia, etc.
3. Horsehair or horsehair waste, if neither spun or knotted end to end. Horsehair is from the mane or tail of a horse, cow, ox, etc.
4. Hides or skins with their hair or wool.
5. Artificial fur, i.e., fibers gummed or sewn onto leather, woven fabric, or other material (so as to imitate furskin) but does not include woven or knitted long pile fabrics.
6. Any textile material which is visibly coated or covered externally with rubber and/or plastics if the coating or covering can be seen with the naked eye disregarding any resulting change of color. In general, it seems that HQ's interpretation of this condition results in many plastic coatings which were considered sufficiently thick to form a plastic surface in TSUS are not thick enough to be a visible coating in the HS. In the case of non-transparent plastic coatings on woven fabric, if the weave of the underlying fabric can be seen easily, assume the coating is not "visible".

**Turned:**

In "turned" construction, the upper is stitched to the leather sole wrong side out before the shoe is turned right side out by hand. At that time, an "insole" may be cemented into the shoe, no significant stitching is done. If the "insole" is removed, you should be able to

reverse the process and turn the shoe wrong side out again by hand. If the leather plug, approximately 3 inches long and 2 inches wide that covers the top of the front of the foot has edges that are turned up to be sewn to the side of the front of the shoe, the shoe is not "turned".

*Unassembled:*

"Unassembled" footwear includes uppers plus, on the same import carrier, the outer-soles to which they will be attached.

*Unfinished Footwear:*

"Unfinished footwear" includes:

1. In general, all items which have a layer of material between most of the foot and the ground and which, after lacing or buckling, will stay on the foot if worn in the condition as imported.

2. Rubber or plastic boot bottoms which have an outsole and which cover the whole foot, if it is clear that a shaft or a collar must be added before sale to a consumer. These items resemble heavy weight, non-stretch galoshes, but the top around the foot below the ankle is not finished and the item has no closure or fastener. They are often called rubber ducky bottoms.

"Unfinished footwear" does not include:

1. Items which require back part lasting, i.e., as imported there is a more or less triangular gap in the leather insole about 2 inches wide at its base at the back of the shoe and about 3 inches long. The bottom edge of the upper in the rear 1/3 of the shoe will not have been bent (lasted) inward to the horizontal but will be pointed straight down.

2. Any upper which is completely unlasted, i.e., no part of it has been bent (lasted) inward to the horizontal.

3. Any bottom which, after shoelaces are put through the appropriate slots or eyelet stays, will still not cover at least part of the top of the foot.

*Unisex:*

It is "Unisex" if more than 5% will be worn by females. The gender is usually obvious in a dress or casual shoe, but it may be doubtful in a flat sandal or an athletic shoe. Unless there is evidence to the contrary, assume all athletic shoes for youths (approximately sizes 11.5 to 2) and men, sizes 8 and smaller, are unisex except shoes for football, boxing or wrestling.

*Upper:*

The "Upper" is part of the shoe above the separate sole or that portion of the shoe which covers the sides and top of the foot if there is no separate sole. An "Upper" can cover the whole leg, thigh, hips, and chest (e.g., fishermen's chest waders) or can consist simply of straps, laces or thongs (e.g., Roman sandals).

*Upper's Exterior Surface Area:* (TSUSA definition. Does not apply to HTS.)

The "uppers exterior surface area" is the outermost surface of the outside of the upper. As a rule of thumb, it is generally what you see covering the foot when the shoe is worn. It does not include:

1. The lining that faces the foot if it will not be exposed when the shoe is worn.
2. The sock lining that the foot rests on.
3. The tongue.
4. Loosely attached decorations such as bows.
5. Stitching threads if either functional or forming only the outline of a design.
6. Shoelaces which do not cover the foot by themselves and velcro straps which are substitutes for shoe laces.

It does include:

1. Any "overlays" that are secured to the rest of the upper all along their edges. One cannot see the material under the "overlay" without either removing stitches or destroying an adhesive bond because they are secured along their edges. Examples are the leather pieces sewn on top of the fabric in jogging/training shoes and the rubber tapes fused to the lower part of the upper in basketball shoes.
2. Small holes in materials. The holes count as if they were filled with the material which surround them.
3. The flocking fibers on a flocked plastic even though they are a very minor percent of the weight of the material.

4. The linings of boots if the boot is likely to be worn sometimes with the top of the shaft folded or rolled down, thus exposing the lining to view.

5. Underlays, which are the outer side of lining that can be seen through large holes in the upper.

6. Embroidery which appears as complete, filled-in design, not just the outline of a design.

#### *Vulcanized:*

In "vulcanized" construction, a rubber tape, about  $\frac{3}{4}$  inch wide and  $\frac{1}{16}$  inch thick, is attached to the side or the top of the edge of the rubber outsole and over the bottom  $\frac{1}{2}$  inch or so of the upper, which could be made of any material. After the curing in the vulcanizing oven, it is virtually impossible to separate the rubber components which have been joined since they have basically been fused together. In addition to being extremely strong, a rubber-to-rubber "vulcanized" joint will not be weakened by immersion in water.

#### *Wading Outfit:*

A "wading outfit" is a fisherman's outfit, which covers the hips and often the chest, which is worn under a regular pair of boots, and which is not sold in specific shoe sizes, but as suitable for a range of sizes.

#### *Welt:*

"Welt" construction is made with a welt (a strip usually about  $\frac{1}{4}$  inch wide and  $\frac{1}{8}$  inch thick at its outside edge) which extends around and is stitched or cemented to the top edge of the outer sole. The welt is sewn by a single seam, through the upper, to a lip which extends down from the bottom outer edge of the insole. The lip may be part of the insole or a separate piece which is attached to it.

#### *Wood:*

"Wood" in shoes includes plywood. It does not include cork, cardboard or paper board.

#### *Wool in Shoes:*

"Wool" in shoes is the natural hair grown by sheep and lambs. It includes both recycled wool (wool fibers recovered from used garments and scraps of fabrics) and virgin wool. However, for items under The Wool Products Labeling Act (items labelled "wool" & 6405.20.60), a label must show the percent of each separately.

#### *Work:*

"Work" footwear is required to have:

1. Such characteristics that a laborer might wear it on the job.
2. An upper which is made of grain leather.
3. An outsole which is more than  $\frac{1}{4}$  inch thick at the ball of the foot.

#### *Zori:*

A "Zori" must have all of the following characteristics:

1. It is wholly rubber or plastic.
2. An upper which is a single, molded piece of rubber or plastic as the sole.
3. A foamed rubber or plastic sole, which is approximately uniform in thickness, i.e., the thickest point is neither more than  $\frac{3}{8}$  inch thicker than the thinnest point nor more than 35 percent thicker than the thinnest point.
4. At its thickest point, the sole is less than 2 inches thick.
5. The sole does not have a separate "insole". A layer of rubber or plastic similar to the other layers of the sole is not a separate insole assuming it is more than  $\frac{1}{32}$  inch thick.
6. The molded rubber or plastic upper segment has plugs at the end of each segment and each plug must penetrate all or part of the sole.
7. The upper either has straps (segments), which form a "V" or "Y" and a thong which goes between the first and second toes or has straps (segments) which form a "X".

A "Zori" may have:

1. Either a sole of one piece of foamed rubber or plastic or many horizontal layers of different colors joined together.
2. A separate, loosely attached ornament on the upper, such as a plastic flower.

(T.D. 93-89)

## FOREIGN CURRENCIES

## DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR OCTOBER 1993

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday: Monday, October 11, 1993.

## Greece drachma:

October 1, 1993 .....	\$0.004247
October 4, 1993 .....	.004268
October 5, 1993 .....	.004254
October 6, 1993 .....	.004254
October 7, 1993 .....	.004239
October 8, 1993 .....	.004263
October 12, 1993 .....	.004296
October 13, 1993 .....	.004278
October 14, 1993 .....	.004256
October 15, 1993 .....	.004232
October 18, 1993 .....	.004203
October 19, 1993 .....	.004177
October 20, 1993 .....	.004161
October 21, 1993 .....	.004125
October 22, 1993 .....	.004088
October 25, 1993 .....	.004105
October 26, 1993 .....	.004149
October 27, 1993 .....	.004162
October 28, 1993 .....	.004144
October 29, 1993 .....	.004170

## South Korea won:

October 1, 1993 .....	\$0.001232
October 4, 1993 .....	.001231
October 5, 1993 .....	.001227
October 6, 1993 .....	.001225
October 7, 1993 .....	.001227
October 8, 1993 .....	.001228
October 12, 1993 .....	.001226
October 13, 1993 .....	.001228
October 14, 1993 .....	.001229
October 15, 1993 .....	.001229
October 18, 1993 .....	.001229
October 19, 1993 .....	.001230
October 20, 1993 .....	.001230
October 21, 1993 .....	.001230
October 22, 1993 .....	.001231
October 25, 1993 .....	.001231
October 26, 1993 .....	.001231
October 27, 1993 .....	.012310
October 28, 1993 .....	.001231
October 29, 1993 .....	.001231

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for October 1993 (continued):

Taiwan N.T. dollar:

October 1, 1993 . . . . .	\$0.037257
October 4, 1993 . . . . .	.040246
October 5, 1993 . . . . .	.037244
October 6, 1993 . . . . .	.037261
October 7, 1993 . . . . .	.037281
October 8, 1993 . . . . .	.037214
October 12, 1993 . . . . .	.037243
October 13, 1993 . . . . .	.037251
October 14, 1993 . . . . .	.037251
October 15, 1993 . . . . .	.037216
October 18, 1993 . . . . .	.037207
October 19, 1993 . . . . .	.037207
October 20, 1993 . . . . .	.037208
October 21, 1993 . . . . .	.037200
October 22, 1993 . . . . .	.037159
October 25, 1993 . . . . .	N/A
October 26, 1993 . . . . .	.037189
October 27, 1993 . . . . .	.037182
October 28, 1993 . . . . .	.037186
October 29, 1993 . . . . .	.037238

Dated: November 1, 1993.

MICHAEL MITCHELL,  
*Chief,*  
*Customs Information Exchange.*

(T.D. 93-90)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR OCTOBER 1993

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 93-82 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday: Monday, October 11, 1993.

New Zealand dollar:

October 7, 1993 . . . . .	\$0.599500
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FOREIGN CURRENCIES—Variances from quarterly rates for October 1993  
(continued):

Sri Lanka rupee:

October 5, 1993 .....	N/A
October 14, 1993 .....	N/A
October 18, 1993 .....	N/A
October 19, 1993 .....	N/A
October 25, 1993 .....	N/A
October 26, 1993 .....	N/A
October 28, 1993 .....	N/A

Dated: November 1, 1993.

MICHAEL MITCHELL,  
*Chief,*  
*Customs Information Exchange.*

# United States Court of International Trade

One Federal Plaza  
New York, N.Y. 10007

*Chief Judge*  
Dominick L. DiCarlo

*Judges*

Gregory W. Carman  
Jane A. Restani  
Thomas J. Aquilino, Jr.

Nicholas Tsoucalas  
R. Kenton Musgrave  
Richard W. Goldberg

*Senior Judges*

James L. Watson  
Herbert N. Maletz  
Bernard Newman  
Samuel M. Rosenstein

*Clerk*

Joseph E. Lombardi



# Decisions of the United States Court of International Trade

(Slip Op. 93-206)

ATLAS COPCO NORTH AMERICA, INC., PLAINTIFF v.  
UNITED STATES, DEFENDANT

Court No. 87-02-00272

[Judgment for plaintiff. Expandable metal tubes used in mining to hold the rock in place in the roof of mines, and known as "Swellex bolts" are found to be properly classifiable as "bolts," rather than simply as articles of iron and steel.]

(Decided October 26, 1993)

*Barnes, Richardson & Colburn (David O. Elliot and Frederic D. Van Arnam, Jr.), for plaintiff. Frank W. Hunger, Assistant Attorney General; Joseph I. Liebman, Attorney-in-Charge, International Trade Field Office (James A. Curley), of counsel: Sheryl A. French, Office of Assistant Chief Counsel, International Trade Litigation, U.S. Customs Service, for defendant.*

## MEMORANDUM OPINION

*WATSON, Senior Judge:* This is a dispute concerning the tariff classification of imported merchandise that is described on the invoices as "Swellex bolts," and further described in technical literature as "Swellex rock bolts." The merchandise was manufactured by Atlas Copco, AB, Stockholm, Sweden, and imported by Atlas Copco North America, Inc., of Utica, New York. The Customs Service classified the merchandise under Item 657.25, TSUS, a general or "basket" provision for articles of iron or steel.

The plaintiff claims that the merchandise should be classified as bolts under Item 646.54, TSUS.

The competing provisions of the TSUS are as follows:

Bolts, nuts, studs and studding, screws, and washers (including bolts and their nuts imported in the same shipment, and assembled bolts or screws and washers, with or without nuts); screw eyes, screw hooks and screw rings; turnbuckles; all the foregoing not described in the foregoing provisions of this subpart, of base metal: of iron or steel:

646.54      Bolts and bolts and their nuts imported in the same shipment ..... 0.7% *ad val.*

\*      \*      \*      \*      \*

Articles of iron or steel, not coated or plated with precious metal:

\* \* \* \* \*

Other articles:

\* \* \* \* \*

Other:

\* \* \* \* \*

657.25 Other ..... 5.7% *ad val.*

The parties entered into a stipulation of facts in lieu of trial. Attached to the stipulation are Plaintiff's Exhibits 1 through 9 and Defendant's Exhibits A through O.

The imported merchandise is tubular in shape and measures from two to twenty-four feet in length with bushings (metal sleeves), welded to both ends. The lower bushing of the imported merchandise has a flange whose purpose is to fasten and hold a bearing plate in place on the roof of the tunnel or mine.

The imported merchandise is made from a steel tube which starts out with an outer diameter of 41 mm. and a wall thickness of 2 mm. The outer diameter of the tube is reduced as the tube is reshaped by flattening it and folding it along its length so that the edges touch one another. This gives it a folded circular profile of 25.5 mm. In its final configuration it has the capacity to expand when water is injected into its folded interior. The merchandise is not threaded and is not used in conjunction with a nut.

The imported merchandise functions in the following manner: A hole is drilled into the roof of a mine or tunnel, into a stratum of stable rock. The merchandise is then inserted, through a hole in a bearing plate, into the drilled hole. The flange at the end does not allow it to pass through the bearing plate. Water, under high pressure, is then injected through a hole in the bushing into the hollow folded interior section of the tube. That is done by means of an installation rod which is connected to a high pressure water pump.

The pressure of the water distends the tube to near its original diameter. This forces the wall of the tube to move outwardly against the irregularities of the drill hole. That in turn causes the lower part of the tube to shorten. The reduction in length of the tube and its position in the hole hold the bearing plate firmly against the roof of the mine or tunnel. The tube is thus anchored in its position and assists in holding up the roof. After installation, the water pressure is released.

The imported merchandise is covered by four United States patents issued to Atlas Copco of Sweden which describe the subject matter of the patents as "method and installation of apparatus for rock bolting," as well as "method of rock bolting and tube formed expansion bolt." This merchandise substitutes for traditional mine roof bolts or rock bolts which traditional types are described in the annual book of ASTM Standards, Vol. 15-08, as bars with heads and threads.

According to the "Professional Users Handbook for Rock Bolting," a portion of which comprised plaintiff's Exhibit 4, the history of rock bolting dates from the end of the nineteenth century, but they were not used extensively until 40 or 50 years later. In the introduction to Chapter 1 of that work it is stated that "the use of rock bolts in mining as well as in underground excavations for civil engineering applications has become worldwide and hundreds of millions of bolts are installed annually."

The evidence establishes that within the field of mining these importations are known as bolts. Ordinarily, the court would have to go no further because Congress is "regarded as having used the name of an article in the commercial sense \* \* \*" *United States v. Victoria Gin Co., Inc., Et Al.*, 48 CCPA 33 (1960). With respect to these articles however, the government argues that the usage in field of mining is not an accurate reflection of the commercial or common meaning of the term "bolt."

The government points to many technical dictionaries which generally define bolt as a metal rod with a head at one end and a thread on the other, the thread being designed to engage a fastening nut. According to the government, if a fastening device designed for insertion into a hole does not have a thread it cannot be called a bolt.

The government also argues that the purpose of a so-called rock bolt differs from that of genuine bolt in that it does not really hold two parts together but rather reinforces or stabilizes a mass of rock.

Plaintiff responds that bolts do not have to have threads and points to the definition of bolt adopted in the case of *A.L. Liebman & Son, Inc. v. United States* 65 Cust. Ct. 85, C.D. 4059 (1970). That opinion clearly supports the plaintiff's position in this action. (In passing, the court takes note of the government's scrupulous assurance that there is no relationship between the plaintiff in that case and the distinguished attorney in charge of the International Trade Field Office of the Commercial Litigation Branch of the Department of Justice.) Plaintiff also relies on a basic tenet of customs law that a named provision for an article encompasses all forms of that article. *Nootka Packing Co. v. United States*, 22 CCPA 464, T.D. 47464 (1935).

The government, in its turn, argues that the *Liebman* opinion was clearly erroneous, in that it found a common meaning that was so broad and indefinite as to include numerous articles that are demonstratively not bolts. In any event, the government asks this court not to adopt the reasoning of *Liebman* because it involved markedly different merchandise.

The government goes on to make a historical argument in which it tries to show that Item 646.54, under which plaintiff seeks classification, is a narrow descendent of Paragraph 330 of the Tariff Act of 1930. The latter covered: "bolts, with or without threads or nuts \* \* \*" The government argues that if congress intended to cover unthreaded bolts it would have retained the language of Paragraph 330.

In its analysis, the court begins with the language of Item 646.54. If indeed this provision was written with an intention that the term bolt

cover only articles with threads on them, further discussion would not be necessary. This line of argument by the government depends on the fact that item 646.54, unlike its ancestor, Paragraph 330 of the Tariff Act of 1930, does not describe the bolts as being "with or without threads \* \* \*." From this the government draws a conclusion that the first mention of bolts in item 646.54 must be the same type of bolt as the later mention of bolts with nuts in that item. All of this assertedly establishes threads as a defining characteristic of bolts.

This argument fails because legislative history clearly indicates that the coverage of item 646.54 was not intended to depart from its predecessor provision. *The Tariff Classification Study of 1962*, which serves as the explanatory notes for the TSUS, describes the scope of items 646.54 through 646.78 as reflecting "the existing treatment accorded to such products of iron and steel \* \* \*." Tariff Classification Study of 1962, Schedule 6, Part 3—Metal Products, Page 188. At that time the existing treatment of such products was found in Paragraph 330. It appears plain, therefore, that the intention of the legislators was that item 646.54 would continue to encompass bolts as an *eo nomine* provision, whether or not the bolts were threaded or unthreaded.

This brings us to discussion of the decision in *A.L. Liebman & Sons, Inc. v. United States*, 65 Cust. Ct. 85 C.D. 4059 (1970). In that case the article in dispute was a steel pin having a head at one end and a spade-like shape at the other end. It was used by manufacturers of redwood furniture to fasten or connect the frame of a redwood chair to a metal spring assembly which supported the seat. In other words, the article went through the wood and a hole in its spade end was hooked to a spring, thereby holding the seat assembly in the proper relation to the redwood frame. Judge Newman held that the imported articles should have been classified as a bolt under item 646.54. In so doing, the primary argument with which the court was concerned was the government's contention that a bolt must bring two surfaces together, not merely anchor one portion of an object to another. The court rejected that fine distinction. It is clear from the court's discussion of the various dictionary definitions of the term bolt that it did not consider threading to be an essential feature of a bolt, but rather emphasized its pin-like shape and its function of fastening or holding something in place. In the opinion of this court the decision in the *Liebman* case is sound and supports the view that threads are not essential to bolts.

The government has made an amusing argument that the standards for bolts described in *Liebman* are so loose that they would allow classification as a bolt for such things as hat pins, flag poles, and curtain rods. This might be true if the definition of a bolt was purely a matter of physical structure. However, so long as there is a functional element in the definition which relates to use in the real world we can be fairly confident that hair pins, flag poles and curtain rods will not achieve classification as bolts. It is inevitable that an attempt to physically describe the essentials of a fundamental object of manufacture should allow theo-

retical extension of the definition to articles that are not intended to be within the class.

In the opinion of the court, the weight of the evidence, the most plausible view of the evidence, and the legal precedents support the view that the articles here in dispute are bolts. These are rod-like articles that are used for fastening purposes and are regarded as bolts in the area of commerce most intimately involved in their use. This should be sufficient for the purpose of tariff classification. Even if one were to insist that a bolt must bring together the surfaces of two distinct entities the fastening of one stratum of rock to another is more than sufficient to satisfy that requirement.

It is also persuasive that the articles in question are an inventive advance over acknowledged bolts. Of course, the mere fact that they replace something that was definitely called a bolt does not mandate their classification as a bolt, any more than the replacement of horses by automobiles would justify classifying automobiles as horses. However, when the commercial field within which they were developed continues to regard them as bolts and designates them as such, the reasonable conclusion is that they are a form of bolts. It would be unreasonable to demand that the use or characterization of this type of specialized object be spread uniformly throughout the world of commerce. For this reason, the court does not give much weight to the fact that technical dictionaries do not yet seem to have included this type of bolt in their definitions.

In point of fact, the closest relative in the family of bolts, in physical or functional terms, may not be the predecessor bolts used in mines but an acknowledged type of bolt known as *expansion bolts*. They operate by means of an expanding attachment which is deformed and forced into closer proximity with the perimeter of a hole as the main body of the bolt turns and becomes shorter in relation to the position of a nut. In any event, the court finds it persuasive that these articles are essentially patented improvements in the field of metal fastening devices, used and known as bolts in the mining industry.

It is conducive to the steady and predictable development of the tariff law that inventive improvements which continue to be known by a traditional name not be excluded from a class simply because of their new physical characteristics. The court finds the government's concentration on the presence of a thread to be an excessively limiting approach to the definition of bolts and much narrower than the approach which can be attributed to congress in creating tariff classifications designed to maintain their meaningfulness into the future. *See, Avdel Corp. v. United States*, 73 Cust. Ct. 200, C.D. 4575 (1974).

The government's emphasis on exact physical parameters resembles an importer's argument almost 60 years ago that minced clams should not be classified as clams because a meaningful change of form had taken place. That claim led to the landmark decision in *Nootka Packing Co. v. United States*, 22 CCPA 464, T.D. 47464 (1935) which is often cited for the proposition that tariff provisions cover all forms of the

named article. It appears that there is no platonic ideal for a bolt. We must continually reassess the scope of the term in light of new developments and the continuity of language in particular fields.

The unworkability of an absolute physical standard, even for complex articles, is also illustrated in *Nippon Kogaku, Inc. v. United States*, 69 CCPA 89, 673 F.2d 380 (1982). In that case an article that concededly fell within the meaning of the general dictionary definitions of "microscope" nevertheless could not benefit from a headnote excluding microscopes from a tariff provision for optical instruments. It remained classifiable as an optical instrument because, among other reasons, the principal users of the merchandise did not refer to it as a compound microscope even though it had the necessary physical characteristics. It certainly follows that if the usage in a relevant area of commerce can nullify the effect of physical characteristics when those characteristics are present, it can also overcome the absence of a physical characteristic such as a thread on a bolt.

The attention of the court has been drawn to the recent decision of Judge Musgrave in *S.I. Stud, Inc. v. United States*, \_\_\_, \_\_\_, Slip Op. 93-124 (July 1, 1993). In that case the dispute centered on whether a rod that was threaded along its entire length (which had originally been classified under the basket provision of Item 657.25) was better described as a bolt under Item 646.54 or a stud under Item 646.57. Although the article in question could conceivably have fallen within the definition of bolt, the court found that the term "stud" was more specific, more in keeping with the terminology of those who used the product, and more precise in terms of technical definitions. That decision, which had no reason to consider the existence of threadless bolts, contains no reasoning to suggest that bolts must have threads in all cases. In this case, specificity obviously favors the provision for bolts, and the terminology of those who use the product, its functional resemblance to expansion bolts, and its replacement of traditional bolts are given greater weight than general technical definitions of the term "bolt."

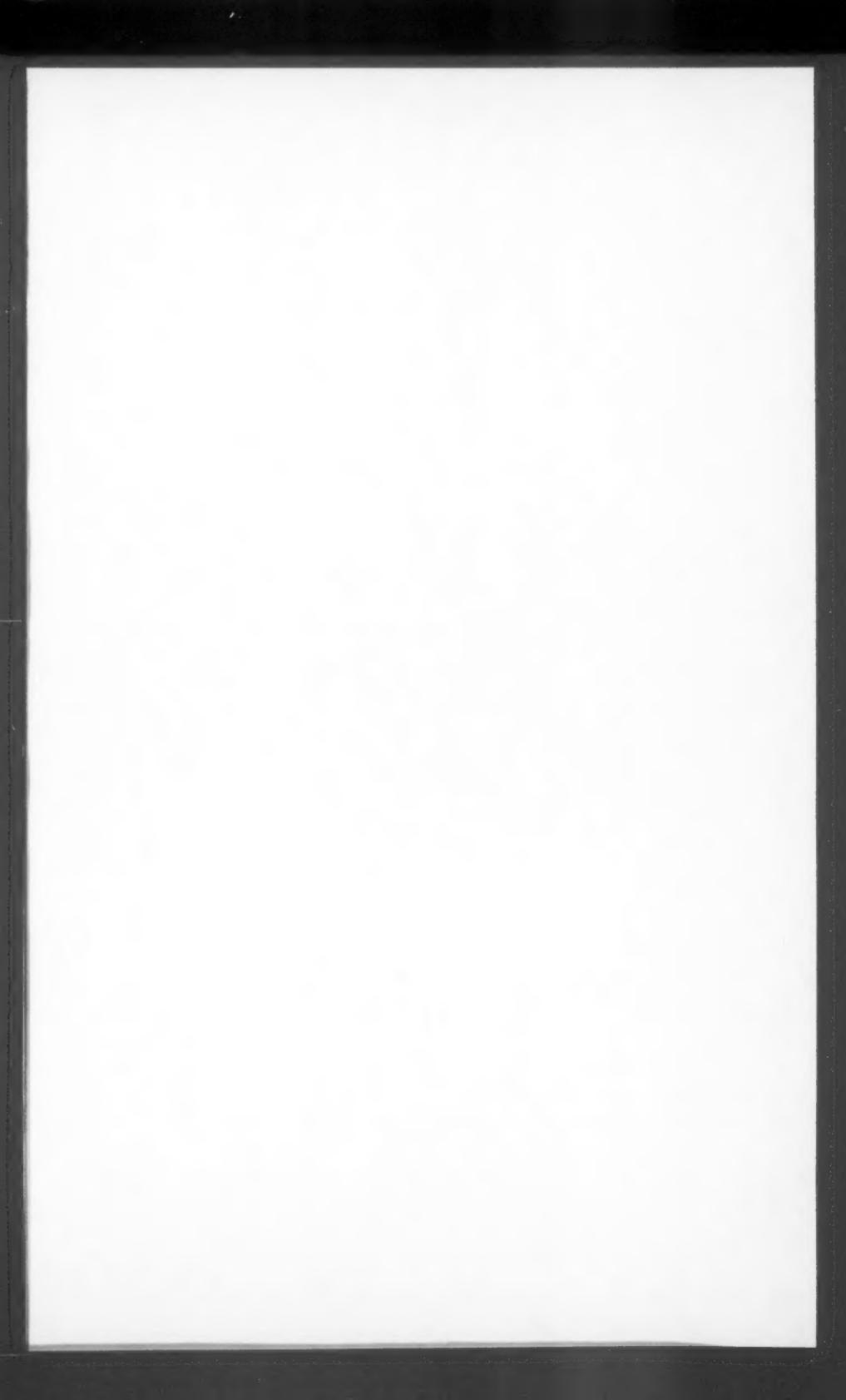
For the reasons given above, the classification is overruled and judgment will be entered for plaintiff.

## ABSTRACTED CLASSIFICATION DECISIONS

DECISION NO. DATE JUDGE	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCANDISE
C83/130 10/26/93 Goldberg, J.	Omni U.S.A. Inc.	90-05-00241	8483.40.50 2.5%	9817.00.60 Duty free	Customs ruling NY 839682 (May 4, 1989), affirmed by HQ 087280 (June 3, 1992)	Houston, TX Gear-boxes for rotary cutters or mowers
C83/131 10/28/93 Goldberg, J.	Pfaff American Sales Corp.	91-05-00384, etc.	8452.10.00 3.7%	8452.21.90 2.5%	Agreed statement of facts	New York, Los Angeles Pfaff "Hobby lock" overlock sewing machines
C83/132 10/28/93 Goldberg, J.	Singer Sewing Company	91-11-00784, etc.	8452.10.00, 8452. \$20 each Other 3.4%	8452.21, 8452.21.90 Other 2.5%	Pfaff American Sales Corp. v. United States, Slip. Op. 93-101 (June 3, 1993), Court No. 91-03-00202	Memphis, TN 14U overedge sewing machines

## ABSTRACTED VALUATION DECISIONS

DECISION NO. DATE JUDGE	PLAINTIFF	COURT NO.	VALUATION	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
VB819 10/2/93 Newman, J.	F.W. Myers & Company, Inc.	82-11-01505	Not stated	Entered value less the incurred foreign inland freight	Agreed statement of facts	Champlain-Rouses Point, NY, Buffalo- Niagara Falls, NY Canadian freight, CDN freight, freight to port of exit, etc.









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Vol. 27, No. 46, November 17, 1993

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